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LOUIS B. ROSENBERG

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PATENT DEPARTMENT (51851)

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* LOUIS B. ROSENBERG,  
SCOTT B. BRAVE and SIAN W. TAN

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Appeal 2010-005051  
Application 09/153,781  
Technology Center 2600

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Before KALYAN K. DESHPANDE, ERIC B. CHEN and  
JULIE K. BROCKETTI, *Administrative Patent Judges*.

BROCKETTI, *Administrative Patent Judge*.

DECISION ON APPEAL

## STATEMENT OF THE CASE

### *Introduction*

Appellants appeal under 35 U.S.C. § 134(a) from a non-final rejection of claims 12-15, 17-23, 25, 36-40, 42, 43, 58-70, 72-76, 78-82, 92-96, 98-111, 113-116, 120, and 121. Claims 1-11, 16, 24, 26-35, 41, 44-57, 71, 77, 83-91, 97, 112, 117-119, and 122-147 have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

### *Exemplary Claim*

Exemplary independent claim 12 under appeal reads as follows, with the disputed limitation in italics:

12. A system comprising:

a first computer means coupled to a network means; and

a second computer means coupled to said network means, said second computer means remote from said first computer means, said second computer means configured to produce a graphical environment, wherein said graphical environment is based, at least in part, on information transferred from said first computer means to said second computer means over said network means, and human/computer interface means, wherein said human/computer interface means comprises an actuator means, said second computer means further comprising *means for interpreting haptic feedback information repeatedly received from said first computer means over said network means*, updating said graphical environment based, at least in part, on said information, and causing said actuator to generate a physical feel sensation at said human/computer interface means based, at least in part, on said haptic feedback information.

*Rejections on Appeal*

The Examiner rejected claims 12-15, 17-23, 25, 36-40, 42, 43, 58-70, 72-76, 78-82, 92-96, 98-111, 113-116, 120, and 121 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-67 of commonly-owned U.S. Patent No. 5,956,484.

The Examiner rejected claims 12, 13, 17-23, 36-40, 42, 43, 58-70, 72-76, 78-82, 102-104, 106, 108-111, 113-116, 120, and 121 under 35 U.S.C. § 103 (a) as being unpatentable over Bakoglu et al. (US 5,685,775), in view of Pierce et al. (US 5,299,810), and in further view of Yamakita et al. (M. Yamakita et al., *Tele-Virtual Reality of Dynamic Mechanical Model*, Proceedings of the 1992 IEEE/RSJ International Conference on Intelligent Robots and Systems 1103-1110 (1992)).

The Examiner rejected claims 14-15, 25, 92-96, 98-101, 105, and 107 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Bakoglu in view of Pierce and Yamakita and in further view of Kelley et al. (Kelley et al., *Magic Mouse: Tactile and Kinesthetic Feedback in the Human Computer Interface using an Electromagnetically Actuated Input/Output Device*, Department of Electrical Engineering, University of British Columbia, Vancouver, BC (October 19, 1993)) and Ouhyoung et al. (Ouhyoung et al., *A Low-Cost Force Feedback Joystick and its Use in PC Video Games*, Communication and Multimedia Laboratory, Department of Computer Science and Information Engineering, National Taiwan University, Taipei, Taiwan, ROC, 787-794 (1995)).

*Appellant's Contentions*

The Appellants contends that the Examiner erred in rejecting claims because:

(1) “Bakoglu in view of Pierce and Yamakita does not disclose or suggest sending or receiving haptic feedback information between computers across a network...” (App. Br. 17); and

(2) [I]t is apparent from the specification that "haptic feedback information" is not just any information that can be sent over the network 8that may result in a haptic effect. Instead, the specification distinguishes between information in general, such as location information, and force (or haptic) feedback information that is specially configured to cause a haptic effect to be output. As such, Applicant has not imported claim limitations from the specification, but rather has sought guidance from the specification to determine the difference between "information" in general and "haptic feedback information." And it is clear from the specification that "haptic feedback information" is information that is designed to cause a haptic effect to be output, rather than any information that is sent over a network.

(Reply Br. 3-4).

### *Issues on Appeal*

Did the Examiner err in rejecting claims 12, 13, 17-23, 36-40, 42, 43, 58-70, 72-76, 78-82, 102-104, 106, 108-111, 113-116, 120, and 121 because Bakoglu, Pierce, and Yamakita fail to teach or suggest the disputed claim limitation?<sup>1</sup>

Did the Examiner err in rejecting claims 14-15, 25, 92-96, 98-101, 105, and 107 because Bakoglu, Pierce, Yamakita, Kelley, and Ouhyoung fail to teach or suggest the disputed claim limitation?<sup>2</sup>

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<sup>1</sup> Separate patentability is not argued for claims 13, 18-23, 36, 37, 39, 40, 42, 43, 59-70, 72-74, 76, 78-82, 104, 106, 108-111 and 113-116.

<sup>2</sup> Appellants' arguments directed to claims 14-15, 25, 92-96, 98-101, 105, and 107

## ANALYSIS

We have reviewed the Examiner's rejections in light of Appellants' arguments (Appeal Brief and Reply Brief) that the Examiner has erred.

We disagree with Appellants' conclusion. We adopt as our own (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken and (2) the reasons set forth by the Examiner in the Examiner's Answer in response to Appellants' Appeal Brief. We concur with the conclusion reached by the Examiner.

Appellants argue that the Examiner's interpretation of the term "haptic feedback information" to encompass any information that may be used to generate a haptic effect is too broad (Reply Br. 2). We disagree.

When construing claim terminology in the United States Patent and Trademark Office, claims are to be given their broadest reasonable interpretation consistent with the specification, reading claim language in light of the specification as it would be interpreted by one of ordinary skill in the art. *See In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). We find the Examiner's interpretation of the term "haptic feedback information" as "any type of information that can be used to generate haptic feedback" to be a reasonable interpretation consistent with the Specification. (Ans. 15).

In Appellants' interpretation of "haptic feedback information" as recited in the Appeal and Reply Briefs, Appellants are reading particular embodiments

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on pages 19-21 of the Appeal Brief do not present additional substantive issues for us to decide.

appearing in the Specification into the claim language. (Ap. Br. 18 & Reply Br. 3). In an attempt to present the difference between “haptic feedback information” and “information that can be used to determine whether to output a haptic effect,” Appellants cite an embodiment describing a situation where a force feedback command sent from one computer to another preferably includes parameters describing the vibration feel sensation (App. Br. 18). However, we must be careful not to read a particular embodiment appearing in the written description into the claim if the claim language is broader than the embodiment. *See Superguide Corp. v. DirectTV Enterprises, Inc.*, 358 F.3d 870, 875 (Fed. Cir. 2004) (“Though understanding the claim language may be aided by the explanations contained in the written description, it is important not to import into a claim limitations that are not a part of the claim. For example, a particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment.”) The challenge is to interpret claims in view of the specification without unnecessarily importing limitations from the specification into the claims. *See E-Pass Techs., Inc. v. 3Com Corp.*, 343 F.3d 1364, 1369 (Fed. Cir. 2003).

Under the broadest reasonable interpretation of the claim consistent with the Specification, we agree with the Examiner that Pierce teaches the recited “haptic feedback information.” Appellants are attempting to import limitations from certain embodiments into the claims which is not proper. Furthermore, Appellants are ignoring one embodiment in the Specification that provides the same “haptic feedback information” as Pierce. Page 24 lines 1-38 and page 25 lines 1-12 of the Specification describes an embodiment related to a paddle and ball game where each player feels forces on their paddle from a ball, i.e. a projectile, hit by another player. This is the same situation that the prior art reference Pierce discloses.

Pierce discloses a vehicle simulator in which each user can launch a projectile at the other user and if a hit occurs with the projectile and a user's vehicle, haptic feedback is generated. (Pierce col. 3 lines 10-12, 35-64). Therefore, the launching of the projectile sends haptic feedback information, i.e. information used to generate haptic feedback, to the other computer which then receives the haptic feedback information. Consequently, the Examiner's interpretation of "haptic feedback information" is reasonable and we agree with the Examiner that "haptic feedback information" encompasses as any type of information that can be used to generate haptic feedback. As such, Pierce discloses sending or receiving haptic feedback information between computers across a network.<sup>3</sup>

Appellants have not presented any arguments challenging the propriety or the substance of the rejection of claims 12-15, 17-23, 25, 36-40, 42, 43, 58-70, 72-76, 78-82, 92-96, 98-111, 113-116, 120 and 121 under the nonstatutory doctrine of obviousness-type double patenting. Thus, any such arguments are deemed to be waived.

## CONCLUSIONS

- (1) The Examiner has not erred in rejecting claims 12-15, 17-23, 25, 36-40, 42, 43, 58-70, 72-76, 78-82, 92-96, 98-111, 113-116, 120, and 121 as being unpatentable under 35 U.S.C. § 103(a).

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<sup>3</sup> We also note that the prior art reference Yamakita also discloses the limitation of sending or receiving haptic feedback information between computers (Yamakita Fig. 1, 1103-1106).



(2) Claims 12-15, 17-23, 25, 36-40, 42, 43, 58-70, 72-76, 78-82, 92-96, 98-111, 113-116, 120, and 121 are not patentable under the non-statutory doctrine of obviousness-type double patenting.

#### DECISION

The Examiner's rejection of claims 12-15, 17-23, 25, 36-40, 42, 43, 58-70, 72-76, 78-82, 92-96, 98-111, 113-116, 120, and 121 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

#### AFFIRMED

ELD